IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.964 OF 2007

Bapu Jayvantrao Bhegade ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.Jayesh B. Kocheta, Adv. for Applicant.
Mr.Rajesh More, APP, for State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 22nd March, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant-orig.accused No.1 and the learned APP for the State.

2. The applicant is seeking anticipatory bail in C.R.No.159 of 2007 of Talegaon Dabhade Police Station, District.Pune. The said C.R. is under Section 307, 326, 325 etc. of IPC.

3. It is the prosecution case that the applicant along with other accused assaulted one Ganesh. At that time, the applicant was armed with chopper and the coaccused were armed with

hockey sticks and swords. When the applicant and others were assaulting Ganesh, one Dattatraya and one Santosh intervened, they also came to be assaulted. In the incident the left hand thumb of Ganesh and three fingers of the right hand of Ganesh were amputated and Ganesh sustained serious injuries on his chest and other parts of the body.

4. The applicant had earlier preferred an application for anticipatory bail before this Court, which came to be rejected. Thereafter, the applicant approached the Supreme Court for anticipatory bail. The said application also came to be rejected by order dated 26.2.2007. Before the Apex Court the applicant made a voluntary submission that he will appear before the Sessions Court. However, the applicant has not appeared or surrendered before the Sessions Court. In the order dated 26.2.2007 the Supreme Court has observed that "if the petitioner surrenders, let his bail application be considered as expeditiously as possible." From the order of the Apex Court, it is seen that before considering the application for bail, condition of surrendering was put on the applicant. However, the applicant

has not surrendered till date and now the applicant has preferred this second application for anticipatory bail before this Court.

5. The learned Advocate for the applicant has stated that this application is preferred on fresh ground that coaccused have been granted bail. It is well settled that the consideration for bail and anticipatory bail are quite different as observed by the Apex Court in the case of **State Vs. Anil Sharma**, reported in **1997 SCC (Cri.) 1039.**

6. The learned Advocate for the applicant further submitted that there is no recovery at the instance of the applicant. However, both these grounds cannot be the grounds to grant anticipatory bail.

7. Looking to all the above facts, I do not think that this is a fit case to grant anticipatory bail to the applicant. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)